

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re:

Lisa M. McConaghy
aka Lisa M. Fusco

Debtor

Chapter 13
Case Number 18-10155
Honorable Diane Finkle

**MOTION OF FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"),
CREDITOR C/O SETERUS, INC. FOR RELIEF FROM THE AUTOMATIC STAY
PURSUANT TO 11 U.S.C. § 362**

Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc., a secured lien holder in the above captioned Chapter 13 proceeding, moves this court for an order, pursuant to 11 U.S.C. §362(d) and Rule 4001 of the Rules of Bankruptcy Procedure for relief from the automatic stay of 11 U.S.C. §362(a) so that it may foreclose a mortgage which it holds on real property known and numbered as 273 Knollwood Avenue, Cranston, RI 02910 and commence a summary process action against occupants of the Property. In support of its motion, Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. states the following:

1. On May 10, 2005, Lisa M. McConaghy executed a note to American Mortgage Network, Inc., dba Amnet Mortgage in the original principal amount of \$189,600.00 (the "Note"). The Note was subsequently endorsed in blank and transferred over to Movant (assignee).
2. The Note is secured by a mortgage from Lisa M. McConaghy to Mortgage Electronic Registration Systems, Inc. dated May 10, 2005 and recorded with the Cranston Records of Land Evidence at Book 3001, Page 61, subsequently assigned to Federal National Mortgage Association by assignment dated November 26, 2008 and recorded in said Cranston Records of Land Evidence at Book 3964, Page 54. The Mortgage is a first mortgage on real property owned

by the Debtor known and numbered as 273 Knollwood Avenue, Cranston, RI 02910 (the "Property").

3. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. is the current holder of the Mortgage.

4. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. is the current holder of the Note.

5. Seterus, Inc. is the servicing agent for Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc.

6. Seterus, Inc. services the loan on the property referenced in this Motion for Relief. In the event the automatic stay in this case is lifted/set aside, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc.

7. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Note-holder or has been duly endorsed.

8. On January 31, 2018, the Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.

9. The Ch. 13 Plan was confirmed on April 25, 2018.

10. As of December 10, 2018, the Note and the Mortgage are in post-petition default for the September 1, 2018 payment and all subsequent payments in the net total amount \$4,600.63 plus reasonable attorney's fees and costs and other charges incurred.

11. There is no other collateral securing the obligation.

12. According to Debtor's Schedule A, the fair market value of the Property is \$144,000.00. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. estimates that the liquidation value of the Property is no greater than \$135,360.00, which is the market value minus 6% for the cost of sale.

13. According to Schedule C, the Debtor is claiming an exemption in the Property in the amount of \$1.00 pursuant to 11 USC § 522(d)(1).

14. To the knowledge and belief of Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc., there is no declaration of homestead recorded against the Property.

15. As of December 10, 2018, the total outstanding balance owed on the Note was \$216,309.62.

16. Onemain also has a lien on the property in the amount of \$40,665.00.

17. Wells Fargo National Bank also has a lien on the property in the amount of \$4,452.96.

18. As of December 10, 2018, the estimated amount of encumbrances on the Property is \$261,427.58.

19. The Debtor's arrearage at the time of filing totaled \$13,265.46.

20. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1) because the Debtor has not made payments pursuant to the Note and Mortgage.

21. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(2) because the Debtor has no equity in the Property and the Property is not necessary for an effective reorganization.

WHEREFORE, Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. moves that the court enter an order granting Federal National Mortgage Association ("Fannie

Mae"), creditor c/o Seterus, Inc. relief from the automatic stay pursuant to 11 U.S.C. §362(d) so that it, and its successors and assigns, may exercise its rights pursuant to the Note and Mortgage in accordance with applicable state and federal law, and may commence a summary process action against occupants of the Property. Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. moves that entry of the Order shall be effective immediately upon entry, notwithstanding the provisions of FRBP 4001(a)(3).

Federal National Mortgage Association
("Fannie Mae"), creditor c/o Seterus, Inc.
By its attorneys,

Date: December 20, 2018

Respectfully Submitted,

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Within fourteen (14) days after service, if served electronically, as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail or other excepted means specified, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is

forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.